

UNITED STATES DISTRICT COURT

Southern

District of

New York

DR. MING-LIANG LEE and YAHWEI LIAU LEE

SUMMONS IN A CIVIL ACTION

V.

Richard Schragger, Schraggs Corp., d/b/a  
Subway and Luis Ferrell, a Schraggs Corp.  
Employee

CASE NUMBER:

08 CV 3421

JUDGE CHIN

TO: (Name and address of Defendant)

Richard Schragger: C/o Subway: 32 W. 39th Street, NY, NY 10018  
Schraggs Corp.: C/o Subway: 32 W. 39th Street, NY, NY 10018  
Luis Ferrell: C/o Subway: 32 W. 39th Street, NY, NY 10018

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Robinson & Yablon, P.C.  
232 Madison Avenue, Suite 1200  
New York, New York 10016  
(212) 725-8566

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

*Caroline Lapsley*  
(By) DEPUTY CLERK

APR 08 2008

DATE

**JUDGE CHIN**

**08 CV**

**3421**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DR. MING-LIANG LEE and YAHWEI LIAU LEE,

Plaintiffs,

Docket #:

-against-

RICHARD SCHRAGGER, SCHRAGGS CORP., D/B/A  
SUBWAY, AND LUIS FERRELL, A SCHRAGGS CORP.  
EMPLOYEE,

Defendants.  
-----X

**COMPLAINT**

Plaintiffs Demand  
Trial by Jury

APR 08 2008

U.S.D.C. S.D. N.Y.  
CASHIERS

Plaintiffs, DR. MING-LIANG LEE and YAHWEI LIAU LEE, by their attorneys

**ROBINSON & YABLON, P.C.**, complaining of the Defendants, sets forth:

**BASIS OF JURISDICTION**

1. The jurisdiction of this Court is predicated upon diversity of citizenship pursuant to 28 U.S.C. §1332 as the dispute involves parties from foreign states and damages in excess of this Court's jurisdictional limits. The plaintiffs DR. MING-LIANG LEE and YAHWEI LIAU LEE are citizens and residents of the nation of Taiwan. The defendants are New York residents and a New York business corporation owned and operated by defendant RICHARD SCHRAGGER.

**IDENTITY OF PARTIES**

2. At all times hereinafter mentioned, Plaintiff, DR. MING-LIANG LEE, was a citizen and resident of the nation of Taiwan.

3. At all times hereinafter mentioned, Plaintiff, YAHWEI LIAU LEE, was a citizen and resident of the nation of Taiwan.

4. At all times hereinafter mentioned, Defendant, RICHARD SCHRAGGER was a resident of the State of New York.

5. At all times hereinafter mentioned, Defendant, SCHRAGGS CORP., d/b/a SUBWAY was a domestic corporation, transacting business in the State of New York.

6. At all times hereinafter mentioned, defendant, LUIS FERRELL, a New York State resident, was an employee of defendant, SCHRAGGS CORP.

**FIRST CAUSE OF ACTION**

7. That on or before March 7, 2008, Defendant, RICHARD SCHRAGGER was the chairman of SCHRAGGS CORP., located at 32 West 39<sup>th</sup> Street, New York, New York, and d/b/a a SUBWAY sandwich shop.

8. That on or before March 7, 2008, Defendant, RICHARD SCHRAGGER was the chief executive officer of SCHRAGGS CORP., located at 32 West 39<sup>th</sup> Street, New York, New York and d/b/a a SUBWAY sandwich shop.

9. That on or before March 7, 2008, Defendant, RICHARD SCHRAGGER was the owner of the SUBWAY franchise sandwich shop located at 32 West 39<sup>th</sup> Street, New York, New York.

10. That on or before March 7, 2008, Defendant, SCHRAGGS COPR., was the owner of the SUBWAY franchise sandwich shop located at 32 West 39<sup>th</sup> Street, New York, New York.

11. That on or before March 7, 2008, Defendant, RICHARD SCHRAGGER and/or his agents and employees, through his business, defendant SCHRAGGS CORP., delivered SUBWAY's hot and cold foods directly to residences, businesses and other premises located in New York County.

12. That on or before March 7, 2008, the defendants utilized and marketed the telephone number 888-SUB-TO-GO for the purpose of soliciting customer delivery orders.

13. That on and before March 7, 2008, the defendants utilized and marketed the e-mail address [www.callsubway.com](http://www.callsubway.com) for the purpose of soliciting customer delivery orders.

14. That on or before March 7, 2008 the defendants formed a SUBWAY Delivery Team consisting of defendants' employees who delivered food via bicycle, to defendants' customers.

15. That on or before March 7, 2008 defendant "LUIS FERRELL" was a SCHRAGGS CORP. employee.

16. That on or before March 7, 2008 defendant "LUIS FERRELL" was an employee of the aforementioned SUBWAY sandwich shop.

17. That on or before March 7, 2008 defendant "LUIS FERRELL" was a member of the aforementioned SUBWAY Delivery Team.

18. That on March 7, 2008 defendant "LUIS FERRELL" was within the scope of his employment, delivering SUBWAY food, via bicycle to his employer's customers.

19. That on March 7, 2008, defendant, "LUIS FERRELL" was in the course of his employment making a delivery via bicycle at the intersection of Madison Avenue and 42<sup>nd</sup> Street, New York City, New York.

20. That on March 7, 2008, the crosswalk at the intersection of Madison Avenue and 42<sup>nd</sup> Street, New York, New York was and still is a public roadway and thoroughfare.

21. That on March 7, 2008, Plaintiffs were pedestrians, lawfully crossing Madison Avenue in the crosswalk at its intersection with 42<sup>nd</sup> Street in New York, New York.

22. That on March 7, 2008 at approximately 11:20 a.m. defendant "LUIS FERRELL" while in the course of his employment making a work delivery via bicycle, disregarded a steady red traffic light at the intersection of Madison Avenue and 42<sup>nd</sup> Street, New York, New York and violently struck plaintiffs.

23. That the aforementioned occurrence resulted in serious and permanent injuries to Plaintiff, DR. MING LIANG LEE, and was caused solely by the carelessness, negligence and recklessness of the Defendants, in their operation, control and supervision of their food delivery business and defendant FERRELL's negligent operation of the bicycle.

24. That the aforementioned occurrence, resulting in serious and permanent injuries to Plaintiff, DR. MING-LIANG LEE, was caused solely by the carelessness, negligence and recklessness of the Defendants, without any negligence on the part of the Plaintiff, DR. MING-LIANG LEE, contributing thereto.

25. That by reason of the foregoing, Plaintiff, DR. MIG-LIANG LEE has been damaged in the sum of Five Million Dollars (\$5,000,000.00) and demands judgment against the Defendants for this amount on the first cause of action.

### **SECOND CAUSE OF ACTION**

26. Plaintiffs repeat and re-allege every allegation contained above in paragraphs "1" through "25" inclusive with the same force and effect as if herein set forth at length.

27. As a spouse, plaintiff, YAHWEI LIAU LEE was entitled to the services and society of her husband.

28. As a result of the foregoing occurrence, plaintiff, YAHWEI LIAU LEE was deprived of the services of her spouse.

29. As a result, plaintiff, YAHWEI LIAU LEE has been damaged in the sum of One Million Dollars (\$1,000,000.00) and demands judgment against the Defendants for this amount on the second cause of action.

WHEREFORE, Plaintiffs DR. MING-LIANG LEE and YAHWEI LIAU LEE demand judgment against the Defendants, RICHARD SCHRAGGER, SCHRAGGS CORP., D/B/A SUBWAY, STANLEY'S CATERING, INC. D/B/A SUBWAY AND "LUIS FERRELL", A SUBWAY EMPLOYEE, in the sum of:

- (i) \$5,000,000.00 (FIVE MILLION DOLLARS) on the FIRST CAUSE OF ACTION; and
- (ii) \$1,000,000.00 (ONE MILLION DOLLARS) on the SECOND CAUSE OF ACTION; along with such other and further relief as may be granted by the Court, including but not limited to the costs and disbursements of this action.

Dated: New York, New York  
April 4, 2008

**ROBINSON & YABLON, P.C.**  
Attorneys for Plaintiffs

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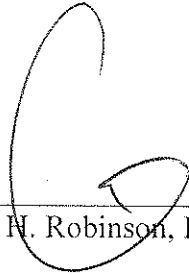
By: Joel H. Robinson (JR 6546)  
232 Madison Avenue, Suite 1200  
New York, New York 10016  
(212) 725-8566



CERTIFICATION

Joel H. Robinson, Esq. being duly sworn, says:

I am an attorney admitted to practice law before the courts of the State of New York and the United States District Court for the Southern District of New York. I am a member of the firm ROBINSON & YABLON, P.C., the attorneys of record for Dr. Ming-Liang Lee and Yahwei Liao Lee, plaintiffs in the within action. I have read the contents of the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to those matters said to be upon information and belief and as to those matters, I believe them to be true. My belief as to all matters not stated upon my knowledge are as follows: file maintained by ROBINSON & YABLON, P.C., and information supplied by the client. This verification is made by me because plaintiff resides in a county other than the county in which my office is located.



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Joel H. Robinson, Esq. (JR 6546)

Affirmed: April 4, 2008